

# COMMITTEE ON LIMITED JURISDICTION COURTS MINUTES

Wednesday, January 23, 2013

10:00 a.m. to 2:30 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, AZ 85007

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**Present:** Carla F. Boatner, C. Daniel Carrion, Cathy Clarich, Janet G. Cornell, Judge Timothy Dickerson, Christopher Hale, Judge James William Hazel, Jr., Judge Eric Jeffery, Judge MaryAnne Majestic, Judge Arthur Markham, Marla Randall, Judge Antonio Riojas, Judge J. Matias “Matt” Tafoya, James “Marty” Vance, Sharon S. Yates.

**Telephonic:** Judge Maria Felix, Judge Dorothy Little.

**Absent/Excused:** Patrick Kotecki.

**Presenters/Guests:** Theresa Barrett (AOC), Stewart Bruner (AOC), Cindy Cook (AOC), Paul Julien (AOC), Jerry Landau (AOC), Scott O’Connell (Legislative), Sheryl Rabin, Esq. (Maricopa County Justice Courts), Marcus Reinkensmeyer (AOC), Maria Rodriguez, Cindy Trimble (Executive Office).

**Staff:** Mark Meltzer (AOC), Kym Lopez (AOC).

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

The January 23, 2013 meeting of the Committee on Limited Jurisdiction Courts (“LJC”) was called to order at 10:04 am by Judge Antonio Riojas, Chair. Judge Riojas introduced new members Christopher Hale and Cathy Clarich.

### B. Approval of Minutes

The draft minutes from the October 31, 2012 meeting of the LJC were presented for approval. A motion and a second to approve the October 31, 2012 meeting minutes as presented was stated and the motion passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Legislative Update

Jerry Landau, AOC Director of Government Affairs, discussed the following legislative proposals of interest to limited jurisdiction courts in the 2013 legislative session:

HB 2070: community restitution work program credits; Representative Coleman

Members commented that some people cannot or will not pay a fine and this is an alternative. Members felt that JP courts should have the same discretion.

**Motion:** Judge Felix motioned to approve a recommendation of community service for replacement of mandatory fines at the judge's discretion if the person is truly indigent and to expand it to justice courts as well.

**Second:** Judge Markham.

**Vote:** Passed unanimously.

HB 2035: resign to run; public declaration

SB 1038: parenting time; court-ordered supervisors

HCR 2005: public retirement systems

## **B. Title 22 Legislation**

Judge Steven McMurry and Sheryl Rabin, Maricopa County legislative analyst, gave an update on the features of this HB 2459 and its current status. Judge McMurry suggested that requests for civil jury trials be governed by rule rather than by statute, and he will submit a rule petition to address this. Regarding section 22-320, the waiver of a jury trial in a criminal case, the waiver must be done as required by Rule 18.1 of the Rules of Criminal Procedure; see further *State vs. Becerra*, an opinion issued earlier this month by Division Two.

Ms. Rabin stated that the HB 2459 is not assigned to committees yet. Language has been changed to be consistent with court rule. It appears that section 22-282 is not commonly used and this statute may be deleted from the bill. Additional cleanup is required and feedback is requested.

A member commented that they liked the proposed change to section 22-429, which would give courts discretion on crediting imprisonment against a monetary fine.

## **C. A.C.J.A. § 1-602: Digital Recording of Court Proceedings**

Stewart Bruner, AOC Manager of Strategic Planning, reviewed proposed changes to ACJA section 1-602, "Digital Recording of Court Proceedings". Members are encouraged to submit comments on the Forum prior to the February 4, 2013 comment deadline.

## **D. Planning for the Next Judicial Branch Strategic Agenda**

Marcus Reinkensmeyer, AOC Director of the Court Services Division and Theresa Barrett, AOC Manager of the Court Programs Unit, introduced the topic of planning, and requested that members help develop recommendations for, the next strategic agenda. Input is requested by the May 8, 2013 AJC meeting. A final presentation will be made to AJC in December of 2013.

Member comments included:

- There is room for improvement in communication between the AOC and limited jurisdiction courts
- Certain Supreme Court committees should have additional limited jurisdiction court representatives.
- Educate superior courts on what limited jurisdiction courts do
- Services need to be coordinated for defendants with mental health issues to break the cycle in criminal courts
- Resources for specialty courts are limited in rural areas. Give consideration to establishing regional “centers of excellence” and inter-jurisdictional solutions so individual courts aren’t required to duplicate services
- Enhance the mechanics of post-adjudication criminal dockets so that cases are completed and closed
- Educate prosecutors to be more progressive with diversion/model programs. Establish best practices for rehabilitation rather than conviction

Members agreed to create a workgroup, including members: Judge Majestic, chair; Judge Jeffery; Judge Felix; Judge Little; Mr. Vance, and Mr. Carrion. The workgroup will report to the members at the next scheduled LJC meeting in April.

#### **E. Training Update**

Paul Julien, AOC Judicial Education Officer, discussed past and upcoming training programs that may be of interest to limited jurisdiction courts. Mr. Julien reminded members that bench books are available online.

#### **F. Case Processing Standards**

Judge Riojas, as a member of the Case Processing Standards Steering Committee, and Cindy Cook, AOC staff for that committee, presented proposed time standards for a number of LJ case types, including justice court civil cases, evictions, small claims, civil traffic, misdemeanors, DUIs, and protective orders. A report will be provided to AJC in December. Member input is requested after February 15, 2013.

Member comments included:

- Prejudgment diversion programs may impact timelines.
- Scheduling 90% of protective order pre-issuance hearings within 10 days will be challenging. Currently, it takes about fourteen days.

#### **G. Citation of Lower Court Appeals**

Judge Steven McMurry presented on the development of common law in justice courts through the publication of lower court appeals (“LCA’s”). The members noted Supreme Court Rule 111, and Maricopa County Local Rule 9.11; apparently, the local rule has not been widely used. The members discussed issues concerning these opinions, including the process for designating a LCA for publication, and whether one county’s LCA would serve as binding precedent in any other county. Also,

would the opinions be posted on a webpage, or would they be “published” in a more traditional way? The members took no action on this item.

#### **H. 2013 Rules Update**

Mark Meltzer provided an update on rule petitions filed in the current rules cycle that may be of interest to limited jurisdiction courts. The update included a variety of petitions concerning Supreme Court, criminal, and justice court civil rules.

The members discussed rule petition number R-13-0014. This petition was prompted by new case law concerning ineffective assistance of counsel at the plea bargaining stage of proceedings. This petition would amend criminal rule 17.4 by adding two new sections. One section would require a prosecutor to reduce a plea offer to writing, and file an unaccepted plea offer with the court no later than five days after its expiration or rejection. The clerk would maintain the plea offer as a confidential record. The other section would have the court inquire of the parties whether they engaged in settlement negotiations and, if so, that the prosecutor complied with the preceding section. The members expressed concern that application of this proposed rule in limited jurisdiction courts could be problematic. Would this requirement apply to a defendant unrepresented by counsel? How would the court know that the plea agreement that was filed is the same as the one that was presented? What would be the impact of maintaining these agreements as separate, confidential documents?

The members were generally opposed to the application of this proposed rule change in limited jurisdiction courts. Prior to the LJC filing a formal comment, however, the members suggested that staff contact the petitioner and verify whether he intended that this rule change apply to LJ courts.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

None present.

#### **B. Adjournment**

**Motion:** A motion to adjourn was stated, seconded and passed unanimously. Adjourned at 2:28 pm.

#### **C. Next Committee Meeting Date**

Wednesday, April 24, 2013

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, AZ 85007